

Date of Hearing: July 1, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Brian Maienschein, Chair

SB 184 (Committee on Governance and Finance) – As Amended June 15, 2015

**SENATE VOTE:** 36-0

**SUBJECT:** Local government: omnibus bill.

**SUMMARY:** Enacts the Local Government Omnibus Bill of 2015, which proposes a number of non-controversial changes to existing laws governing the powers and duties of local agencies.

**FISCAL EFFECT:** According to the Senate Appropriations Committee, there are potential minor reimbursable mandate costs related to provisions that eliminate the sunset on releasing subdivision performance securities. The Senate Appropriations Committee notes that no mandate claims have been filed in the 10 years that these provisions have been in statute, so it is unlikely that local agencies would submit a reimbursement claim in the future. The remaining provisions of this bill are expected to have negligible fiscal impacts.

**COMMENTS:**

1) **Bill Summary.** This bill enacts the Local Government Omnibus Act of 2015, which includes the following provisions:

- a) **County recorders.** County recorders accept and officially record legal documents, notices, or papers. Among the papers that they record are "instruments," which are written papers signed by the persons who are transferring real property.

Existing law, which governs county recorders, has not been amended for many decades and uses the pronouns "he" and "him" to refer to a county recorder. This bill replaces outdated references to "he" and "him" with gender-neutral terms.

Current law allows a county recorder to make marginal notations on records to indicate whether "internal revenue stamps" were affixed to specified documents. This bill deletes the references to "internal revenue stamps" and instead allows a recorder to make marginal notations as part of the recording process.

Outdated existing law, pursuant to Section 14 of Article XI of California's 1849 Constitution, which established a wife's right to own property separately from her husband, still requires county auditors to keep an index of the separate property of married women. This bill repeals this antiquated requirement.

Current law allows a county recorder to keep a "general grantor-grantee index" of specified recorded documents relating to real property transfers. This bill allows a county recorder to combine the general grantor-grantee index in computerized or electronic format and requires that the names of the grantors must be distinguished from the names of the grantees by an easily recognizable mark or symbol.

Existing law specifies the procedures that a county recorder must follow to record an instrument that is authorized by law to be recorded and deposited in the recorder's office. Among those procedures is a requirement that the recorder must endorse upon the document the "name of the person at whose request it is recorded". More recent statute specifies that the name of a person requesting recording must be shown in the left hand margin of a document. This bill deletes the outdated requirement that a recorder must include a requestor's name in the endorsement upon the document.

Read narrowly, existing law could be interpreted as requiring a county recorder to use the mail to return a recorded document to the person who submitted it for recording. This bill clarifies that a county recorder may immediately return a document that has been recorded to the party who submitted the document.

Current law requires that a deed or instrument executed to convey fee title to real property must, before a recorder accepts it for recording, note across the bottom of the first page the name and address to which future tax statements may be mailed. This bill deletes language specifying that the information must appear "across the bottom" of the page, allowing the tax statement declaration to appear at the top of the page.

- b) **Subdivision Map Act – Payments for setting final monuments.** The Subdivision Map Act controls how counties and cities approve the conversion of large landholdings into separate parcels. The Act requires that an engineer or surveyor making a survey for a final map or parcel map must set sufficient durable monuments so that another engineer or surveyor may readily retrace the survey. A city or county may require a subdivider to provide a deposit to ensure the payment of various fees and services related to a final map or parcel map, including payment of the cost of setting the final monuments. The Act requires that if an engineer or surveyor's costs of setting final monuments are to be paid from the deposit held by the city or county, the payment must be made by the city or county's "legislative body." As a result, an item approving the release of funds from a subdivider's deposit must be placed on the legislative body's agenda for approval. A local legislative body must act before an engineer or surveyor can receive payments from a subdivider's deposit can result in substantial delays and unnecessary costs. This bill allows a local legislative body to designate a public officer or employee, who is qualified to prepare or approve parcel maps or final maps, to release or reduce the amount of a deposit to pay an engineer or surveyor for setting final monuments, subject to specified conditions and rules.

Counties and cities may impose conditions when they approve proposed subdivisions, often requiring the subdividers to install public works such as street lights. Sometimes subdividers must provide assurances that the work will be completed, including performance bonds, deposits, credit instruments, liens, or other property interests. In 2006, the Legislature adopted uniform procedures and time limits by which counties and cities must either release the securities provided for subdivision conditions or tell the subdividers about the incomplete performance or unsatisfactory work with a January 1, 2011, sunset clause (AB 1460, Umberg, 2005). In 2010, the Legislature extended the statute's sunset date, until January 1, 2016. This bill repeals the sunset date in the statute governing the timeframe and procedures for releasing subdivision performance securities, thereby allowing the statute to remain in effect indefinitely.

- c) **Clerks.** Several statutes governing a local government's powers to acquire, construct, maintain and operate sanitary sewer systems assign specified duties to the local government's clerk. Similarly, statutes governing improvement districts assign specified duties to a local government's clerk and contain statutory definitions and uses of the term "clerk" which are ambiguous and could be misinterpreted to refer to a county clerk, a court clerk, or even a county registrar of voters. This bill clarifies that the term "clerk," as used in several statutes governing local governments' sanitary sewer functions and business improvement districts, means the clerk of the local agency's legislative body.
- d) **County Auditors and Sanitation and Sewage Systems.** Cities, counties, special districts, and authorized public corporations can collect fees for the sanitation and sewage services and facilities they provide. Current law requires officials to give written notice to affected property owners and file a copy of this notice with "the auditor," if a local government wants to collect these fees as part of its general taxes, or if it plans to place a lien on a parcel of land to collect these charges." The Code defines "auditor" as "the financial officer of the [local government] entity" which is confusing, as these code sections only relate to duties and powers of county auditors. This bill adds the word "county" before the word "auditor".
- e) **Small counties and job order contracting.** Current law allows counties to award annual contracts for "repair, remodeling, or other repetitive work," these contracts are commonly referred to as job order contracts, and contains contracting requirements that apply only to counties with fewer than 500,000 residents. These provisions prevail over other statutes and create ambiguity about whether smaller counties can use the job order contracting authority that is established elsewhere under current law. In 2007, the Legislature passed a bill to eliminate a similar ambiguity over whether existing law allows smaller counties to participate in the Public Construction Cost Accounting Act (SB 206, Cox, 2007). This bill clarifies that counties with fewer than 500,000 residents may award contracts, pursuant to the provisions of a specified statute governing counties' job order contracts.
- f) **Public utility districts cross-reference correction.** The California Public Contract Code specifies rules that public utility districts must follow when letting contracts for certain types of work. Existing law contains an erroneous cross-reference to the Public Utility Code statutes that govern public utility districts. This bill corrects the cross-reference.
- g) **California Uniform Public Construction Cost Accounting Act updates.** The Public Contract Code establishes procedures for public works projects, including limits on the contracts' values. Counties, cities, special districts, school districts, and community college districts voluntarily adopt the standards and procedures of the Uniform Public Construction Cost Accounting Act (UPCCAA), and can use higher limits for their contracts. About 770 local agencies participate. The UPCCAA created the Uniform Public Construction Cost Accounting Commission (the Commission), which is responsible for administering the UPCCAA. The Commission consists of fourteen members, thirteen of which are appointed by the State Controller and one designated member of the Contractors' State License Board. Seven members represent the public sector (local governments). Six members represent the private sector (public works contractors and unions).

The UPCCAA requires that two commission members must represent school districts, one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000. This bill repeals the language specifying average daily attendance thresholds, thereby allowing the Commission's two school representatives to come from districts of any size.

The UPCCAA specifies that the members of the commission hold office for terms of three years, and until their successors are appointed. This bill clarifies that the State Controller may reappoint members for subsequent three-year terms. This bill also increases, from 90 days to 120 days, the period of time within which the Controller must appoint a replacement to fill a vacancy on the Commission.

Commission members cannot receive compensation for serving on the Commission, but must be reimbursed for travel and other expenses necessarily incurred in the performance of their duties. This bill specifies that the reimbursement rates must conform to the Controller's travel guideline rates.

The UPCCAA requires the Commission, as part of its deliberations and review, to take into consideration relevant provisions of the Office of Management and Budget Circular A-76, which relates to the performance of commercial activities. This bill clarifies that the Commission's consideration should include any periodical revisions of that OMB circular.

The UPCCAA requires participating local agencies to adopt an informal bidding ordinance that, among other things, specifies the manner in which notices inviting informal bids are to be sent to a list of qualified contractors, construction trade journals, or both. This bill clarifies the informal bid solicitation procedures and allows notices inviting informal bids to be mailed, faxed, or emailed to the appropriate contractors list or trade journals.

The UPCCAA requires a participating agency's governing body to adopt plans, specifications, and working details for public projects that exceed a specified value. This bill allows the plans, specifications, and working details to be prepared by a designated representative of the governing body, which will accommodate the Division of the State Architect's role in the plan approval process for school districts.

The UPCCAA requires the Commission to prepare written findings after it reviews an agency's compliance with the Act's provision. This bill requires that the written finding must be presented to the agency within 30 days of the Commission's review. The UPCCAA requires a local agency to present the Commission's findings to its governing board and requires the board to hold a hearing within 30 days of receiving the findings. This bill requires that the board must be presented with the findings within 30 days and allows the board to hold a hearing within 60 days of receiving the findings. For Commission findings relating to non-accounting practices, this bill requires the agency's board to notify the commission in writing, within 60 days of receipt of written notice of the findings, of the public agency's efforts to comply.

- h) **Summarily vacating public service easements.** As a condition of property development, cities and counties may require developers to dedicate public service easements that provide a legal basis for utilities and other public facilities to occupy land within the development. In some cases, these public service easements are never used for the purposes for which they were originally intended. Current law specifies the manner in which cities and counties can summarily vacate public service easements that are no longer needed. Proponents of this bill argue that the procedures for summarily vacating public service easements, which require a local legislative body to adopt a “resolution of vacation” at a public hearing, can be unnecessarily time consuming and costly. As an alternative, this bill allows a local legislative body to delegate the authority to vacate a public service easement to a designated public officer or employee who is otherwise qualified to prepare easements or approve parcel maps or final maps. The designated officer or employee can vacate an easement by recording a document that contains the same information that must be stated in a “resolution of vacation,” including a certification that all entities having any right, title, or interest on the public service easement being vacated have been notified of this action.
  - i) **California Water District contracting authority.** California Water District Law requires that contracts necessary to carry out a district's powers and purposes must be executed by a district's president and secretary. Existing law governing several other types of special districts allow the districts' boards to delegate the power to sign contracts to district officers and employees. This bill grants California Water Districts' governing boards the authority to delegate to district officers and employees the power to sign contracts on the district's behalf.
  - j) **Paso Robles Basin Water District.** Current law authorizes, under the California Water District Law, the governing board structure and powers of the Paso Robles Basin Water District in San Luis Obispo County (AB 2453, Achadjian, 2014). Existing law specifies that the District's board must be comprised of nine directors, and allows the District's board to adopt emergency regulations, which become effective immediately upon adoption, by the vote of only four or more board members. This bill corrects this error by requiring that a supermajority vote of seven members of the Paso Robles Basin Water District Board is required to adopt an emergency ordinance.
- 2) **Author's Statement.** According to the author, "Each year local officials discover problems with the state statutes that affect counties, cities, special districts, and redevelopment agencies, as well as the laws on land use planning and development. These minor problems do not warrant separate (and expensive) bills. According to the Legislative Analyst, in 2001-02 the cost of producing a bill was \$17,890.

"The Senate Governance & Finance Committee responds by combining several of these minor topics into an annual omnibus bill. In 2014, for example, the Committee's omnibus bill was SB 1462 which contained 10 proposals to change state law, avoiding more than \$160,000 in legislative costs (Chapter 201, Statutes of 2014). Although this practice may violate a strict interpretation of the single-subject and germaneness rules as presented in *Californians for an Open Primary v. McPherson* (2006) 38 Cal.4th 735, nevertheless it is an expeditious and relatively inexpensive way to respond to multiple requests."

- 3) **Conflicting Legislation.** Provisions of this bill conflict with AB 679 (Allen) and AB 1105 (Daly) and may need amendments to address the conflict, should the bills continue to move through the legislative process.
- 4) **Arguments in Support.** Supporters argue that this bill makes several non-controversial changes to the statutes governing local governments that are proposed from a variety of stakeholders and that these minor problems do not warrant separate and expensive bills; therefore, the omnibus bill offers a feasible vehicle to maintain the accuracy and effectiveness of state law.
- 5) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:****Support**

Air Conditioning Sheet Metal Association  
Air-Conditioning & Refrigeration Contractors Association  
Association of California Water Agencies  
California Building Industry Association  
Construction Industry Force Account Council  
California Legislative Conference of the Plumbing, Heating and Piping Industry  
Finishing Contractors Association of Southern California  
National Electrical Contractors Association  
United Contractors  
Wall and Ceiling Alliance

**Opposition**

None on file

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